

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES, §
§
Petitioner, §
§
v. § Civil Action No. SA-12-CV-508-XR
§
A 46.175 ACRE TRACT OF LAND, §
MORE OR LESS, §
§
Respondent. §

AMENDED ORDER FOR SALE OF THE RESPONDENT REAL PROPERTY

Came on to be considered this date the Amended Order for Sale of the Respondent Real Property to replace this Court's prior Order for Sale (Docket no. 171). The Court, having reviewed the record and being otherwise duly and fully apprised in all the premises, modifies the prior Order. It is hereby ORDERED that should buyer desire to purchase the Property, the sale of the Property will occur no later than 10:00 p.m. on Friday, November 4, 2016, and that the buyer will deliver to Cantera Parkway Development Partners (CPDP) the following consideration in connection with such sale: \$7,000,000.00 cash at closing. IT IS FURTHER ORDERED THAT

1. At closing for the Respondent Real Property, the title company shall disburse payment of One Million Dollars (\$1,000,000.00) to the United States of America and \$3,133,131.86¹ to PlainsCapital Bank;
2. In exchange for these payments, at closing, the United States of America shall execute and deliver a Removal of *Lis Pendens* for the Respondent Real Property, and PlainsCapital Bank shall execute and deliver a release of the lien it presently holds on the Respondent Real Property (such release of lien shall be deposited into escrow with the title company no later than Wednesday, November 2, 2016 and be in a form that is sufficient for the title company to agree to not take exception to such lien in connection with the issuance of the owner's title policy in connection with the above-referenced closing).

¹ This is the approximate amount based on a closing occurring on October 31, 2016. Depending on the date that the closing actually occurs, this figure may be modified slightly.

3. Because PlainsCapital Bank believes it is owed additional sums pursuant to its asserted claim for accelerated interest rate, attorney fees and other fees, \$1,200,000.00 shall be placed in the Registry of the Court by the title company pending further order from this Court.

4. The Clerk, United States District Court, shall receive and deposit into the Court's registry a check in the approximate amount of \$1,200,000.00, which represents the disputed amount of the sale proceeds that PlainsCapital Bank asserts it is owed beyond the payment it will receive under paragraph 1 above.

5. The proceeds from closing shall be disbursed as described in paragraphs 1, 3, and 4 above and CPDP will receive the balance of the remaining funds after payment of the following costs in connection with the above-referenced Closing: title insurance, property taxes, recording costs, HOA dues, tax certificates, escrow/settlement/closing fees, broker's commissions pursuant to separate written agreement, and seller's reasonable attorney fees.

6. Upon the consummation of the sale, the parties are to notify the Court that the sale has been consummated and that the payments have been distributed by the title company as Ordered;

7. Thereafter, the Court shall enter an Order of Dismissal of the Verified Complaint for Forfeiture as moot and thereafter, the Court will deny CPDP's motion to determine the bank loan payoff because the Court will no longer have jurisdiction;

8. PlainsCapital and CPDP reserve the right to litigate in state court, whether acceleration or other expenses have been triggered;

9. It is not within this Court's jurisdiction to determine which state court is appropriate: whether Bexar County, where it was first filed, or Cameron County, where it was filed thereafter.

10. Should the parties negotiate and agree to a different structure for the transaction, they are to notify the Court, which may then rescind this Order and order new terms for the transaction.

It is so ORDERED.

SIGNED this 31st day of October, 2016.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE